

# China's National People's Congress Publishes Translation of the Seed Law

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China's National People's Congress has published an [English translation of the amended Seed Law of the People's Republic of China](#). The current amendment was adopted at the 32nd Meeting of the Standing Committee of the Thirteenth National People's Congress on December 24, 2021 and went into effect March 1, 2022. With respect to intellectual property, the amended Seed Law revised Article 28 to add the explicit right to license a new plant variety right to others and to add to acts of infringement (as underlined below). For ease of reference, Chapter IV: Protection of New Varieties is reproduced below. The full translation is available [here](#).

## Chapter IV

### Protection of New Varieties

Article 25 The state implements a system for new plant variety protection. A plant variety artificially selected or improved from a discovered wild plant genus or species in the national lists of protected plant varieties, which is new, distinct, uniform, and stable, and whose denomination is appropriately designated, shall be granted the new plant variety right by the competent department of agriculture and rural affairs or the competent department of forestry and grassland under the State Council to protect the lawful rights and interests of the right holder. The contents and the holder of the plant variety right, conditions for its grant, application and acceptance, review and approval, duration, termination and nullification of variety rights shall be

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regulated by the provisions of this Law and other relevant laws and administrative regulations.

The state encourages and supports scientific and technological innovation in the seed industry, the breeding of new plant varieties, and the translation of relevant research. Where the protected varieties are promoted and applied, the breeders shall obtain corresponding economic interests in accordance with law.

**Article 26** The plant variety right to one new plant variety may only be granted to one breeder. Where two or more breeders file applications respectively for the variety right to the same variety, the right shall be granted to the applicant whose application has been filed first; in the case of simultaneous applications, the variety right shall be granted to the applicant who has first accomplished the breeding of the said variety.

For any new plant variety that is in violation of the law or harmful to the public interest or ecological environment, the plant variety right shall not be granted.

**Article 27** The denomination of a new plant variety with the plant variety right granted shall be distinguishable from the denomination of any other known variety of the same or similar botanical genus or species. The said denomination of the new plant variety, after the variety right is granted to it, shall be the generic designation of the new plant variety.

The following denominations may not be used in the designation of a protected variety:

- (1) those consisting solely of figures;
- (2) those in violation of social morality; or
- (3) those liable to mislead concerning the features or characteristics of the new plant variety or the identity of the breeder.

The denomination used in applying for the protection, review and decision,

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registration, promotion, and in the sale of a new plant variety shall be the same. The seeds produced for promotion or sale shall conform with the samples submitted for applying for new plant variety protection, variety review and decision, or variety registration.

Article 28 A plant variety right holder has the exclusive right to his protected variety. The variety right holder may license others to exploit the variety right and collect license fees as agreed in the contract; the license fees may be collected in the forms such as a fixed price or a commission from the promotion income.

No entity or individual shall, without the consent of the variety right holder, produce, propagate, treat for propagating purposes, offer for sale, sell, import, export, or store the propagating material of the said protected variety for the purpose of performing the aforementioned acts, or shall repeatedly use for commercial purposes the propagating material of the said protected variety in the production of the propagating material of another variety, unless otherwise provided by this Law or other relevant laws or administrative regulations.

Where any of the acts provided for in the preceding paragraph is performed, which involves harvested material obtained by the unauthorized use of propagating material of the protected variety, authorization shall be obtained from the variety right holder, unless the variety right holder has had a reasonable opportunity to exercise his right in relation to the propagating material.

Where any of the acts provided for in the preceding two paragraphs is performed on an essentially derived variety, the consent of the variety right holder of the initial variety shall be obtained.

The steps and measures for implementing the system for the essentially derived variety shall be formulated by the State Council.

Article 29 Where a protected variety is exploited under any of the following circumstances, the exploitation may be allowed without the authorization from or the payment of a royalty to the variety right holder, but it shall not

infringe upon other rights of the variety right holder in accordance with this Law or other relevant laws or administrative regulations:

(1) the exploitation of the protected variety for breeding and other scientific research activities; or

(2) the use by farmers for propagating purposes, on their own holdings, of the product of the harvest which they have obtained by planting propagating material of the protected variety on their own holdings.

Article 30 For national interests or public interests, the competent department of agriculture and rural affairs or the competent department of forestry and grassland under the State Council may make a decision to grant a compulsory license for the exploitation of a variety right, and register and announce it.

Any entity or individual that has obtained a compulsory license for exploitation neither has an exclusive right to exploiting the variety right nor has the right to authorizing exploitation by others.

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